

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE WESLEY L. HSU

4 UNITED STATES DISTRICT JUDGE PRESIDING

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6 Alva Dennis Lytton,)
7 PLAINIFF,)
8 VS.) NO. CV 23-3166 WLH
9 Southern California Regional Rail)
10 Authority, et al.,)
11 DEFENDANT,)
12 _____)
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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS

15 LOS ANGELES, CALIFORNIA

16 FRIDAY, JULY 21, 2023

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1 LOS ANGELES, CALIFORNIA; FRIDAY, JULY 21, 2023

2 9:56 A.M.

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6 THE CLERK: Calling Item No. 2, LA 23 CV-3166,
7 Alva Dennis Lytton versus Southern California Regional
8 Rail Authority, et al.

9 Counsel, please state your appearances
10 starting with plaintiff.

11 MR. HAUSER: Samuel Hauser on behalf of plaintiff,
12 Your Honor.

13 MR. KABANI: Zeeshan Kabani on behalf of the
14 defendant, Your Honor.

15 THE COURT: All right. Good morning to both of
16 you. We are here on the defendant's motion to stay the
17 case pending arbitration. We issued a tentative last
18 night.

19 Mr. Kabani, would you like to be heard?

20 MR. KABANI: I would like to be heard, Your Honor.

21 THE COURT: All right.

22 MR. KABANI: Well, first and foremost --

23 THE COURT: Why don't you use the lecturn.

24 MR. KABANI: Good morning, your Honor.

25 THE COURT: Good morning.

1 MR. KABANI: First and foremost, I wanted to thank
2 the Court for allowing opportunities for junior attorneys
3 to have these types of oral arguments which is very
4 educational and helpful. That being said, I would like
5 to get into my argument now.

6 THE COURT: Yes.

7 MR. KABANI: After reviewing the Court's tentative
8 yesterday, it appeared that the analysis was -- well,
9 this particular plaintiff is a railroad employee so no
10 further analysis is necessary.

11 The United States Supreme Court in Circuit
12 City versus Adams and Southwest Airlines versus Saxon
13 both concluded that the test is not just that does the
14 plaintiff fit into one of these three categories, but it
15 actually is more of a is plaintiff a transportation
16 worker generally.

17 THE COURT: No. I don't think that is what they
18 said because neither of those cases involved a seaman or
19 a rail worker. What they said was we are looking at the
20 third prong or the residual clause, Section 1, and when
21 you look at the third prong of Section 1, it means that
22 Congress intended to confine it to a specific kind of a
23 worker that works with interstate goods.

24 I can't remember. I think it is Circuit City
25 specifically says Congress also intended to exempt two

1 categories of workers that they had already legislated a
2 great deal about meaning the seamen and the railway
3 employees.

4 So I don't actually take what the Supreme
5 Court said to cast any limitation on the term railway
6 employee either intentionally or unintentionally because
7 that -- those facts weren't in front of them.

8 MR. KABANI: Your Honor, if I may just read from a
9 quote from Circuit City versus Adams.

10 THE COURT: Sure.

11 MR. KABANI: So it does address all three of the
12 categories. It says the exemption clause provides the
13 act shall not apply to the contracts of employment of
14 seamen, railroad employees or any other class of workers
15 engaged in foreign or interstate commerce, and it quotes
16 the FAA.

17 Most courts of appeals conclude that the
18 exclusion provision is limited to transportation workers
19 defined, for instance, as those workers actually engaged
20 in the movement of goods in interstate commerce.

21 So it addresses all three and encompasses all
22 three of those categories but specifies that this is for
23 all, specifically for transportation workers which is why
24 these two Supreme Court cases talk about the language
25 that Congress used in saying "and any other class of

1 workers engaged in foreign or interstate commerce" to
2 suggest that --

3 THE COURT: But hold on a second. They just said
4 that most circuits conclude that. There is not a single
5 circuit decision that I can find that says that they are
6 not, that railway employees are not categorically
7 covered. In fact, the only one that we could find was a
8 Fifth Circuit case that in fact says what I think it ways
9 which is that seamen are categorically covered. So no
10 further allegations are necessary.

11 MR. KABANI: I see. So even assuming, Your Honor,
12 that that is in fact the case, I think that this
13 particular plaintiff who was a safety manager to
14 summarily conclude that he is in fact just a railroad
15 employee, that categorically provides that any even
16 executive level employee could also just be considered a
17 railroad employee.

18 THE COURT: I honestly think the janitor for
19 Amtrak, to the extent that they employ janitors, are also
20 covered by the exclusion. I think that my plain reading
21 of the statute is if you are employed by a railroad
22 company, you are exempted from the FAA, period.

23 And I think that there is reason for that. I
24 don't think it is appropriate to analyze the legislative
25 history, but based on what the Supreme Court said which

1 was, you know, Congress intended to exempt a category of
2 workers that they had already legislated a great deal
3 about, in my view, what Congress was saying is these
4 people are exempted because they have other laws to
5 protect them that we have already passed. So you don't
6 need to consider the FAA when considering employment
7 contracts by seamen and railway workers.

8 MR. KABANI: So, on the contrary, Your Honor,
9 Southwest Airlines versus Saxon talks about looking at
10 employees as a class of worker rather than just
11 categorizing everybody in the same category?

12 THE COURT: I understand that, but Southwest
13 Airlines is an airline company. It is not a railway. So
14 I don't think that that analysis is particularly helpful
15 for my purposes. I mean, did you find any cases like at
16 any level of the court that says what you are saying now,
17 specifically, where the defendant is a railway or a
18 sea -- some sort of sea, shipping type entity? Because I
19 will say we did some looking, and the only case we found
20 was that Fifth Circuit case which sides with my reading
21 of the statute.

22 MR. KABANI: Your Honor, we did not, but, to the
23 contrary, we also didn't find anything that specifically
24 explicitly said that they are. And going into I think
25 the reading of Saxon, it is talking into those categories

1 as well. So it is not saying that -- the statute doesn't
2 say that seamen and railroad take precedence and then
3 everything else is just lumped in as well as a lesser
4 category amongst those categories, and the case law --.

5 THE COURT: But isn't that third category called
6 the residual clause? I mean, that implies that they are
7 lumping everything into that third category.

8 MR. KABANI: I would argue that it doesn't imply
9 that those categories receive a lesser importance, and in
10 the analysis of the three prongs, the Supreme Court
11 treated that third prong in the same way in analyzing and
12 looking at a class of employees rather than the entity
13 and entirety of the organization of employer. So I would
14 argue that that same analysis should be applied here
15 where despite Amtrak and Metrolink being railroad
16 companies, you should still look at the class of employee
17 that we are discussing.

18 THE COURT: Okay.

19 MR. KABANI: So, and in this case, this plaintiff
20 was a safety manager. He did not -- he was not a driver.
21 He did not work on the railroad. He didn't hammer and
22 install railroads. He did not interact with anything
23 involving interstate commerce. He was a safety manager.
24 So to classify him as a railroad employee specifically, I
25 think is an overgeneralization of the term.

1 THE COURT: So let me say that if the analysis
2 were I need to find that he is somehow involved in the
3 shipment of -- in interstate commerce of goods, that I
4 would not be able to based on the record that has been
5 submitted before me.

6 You know, it is the plaintiff's burden to
7 establish that if they need to establish that, and I
8 don't think anything in the plaintiff's declaration even
9 speaks to that. He doesn't tell me what he does. I know
10 that you say -- your client says he is a safety manager.
11 I don't have any idea what that means. It could possibly
12 in theory have something to do with the interstate
13 transportation of goods because if part of his duties is
14 to make sure that the rail is safe between Phoenix and
15 Los Angeles, then theoretically that could be covered in
16 that third category.

17 But for the purposes of today's hearing and
18 this motion, I can't assume that and, in fact, have to
19 find the contrary of that because there is no evidence as
20 to what he actually does. And since it is the
21 plaintiff's burden, I would not -- I would not find that.
22 I think that the problem is that there is this other
23 category that he clearly falls under. There can't be any
24 dispute that he is an Amtrak employee because Amtrak is
25 the defendant.

1 So I think just to, you know, make sure that
2 we narrow the argument, I don't disagree with you that
3 there is not evidence that he was involved in the
4 interstate shipment of goods.

5 MR. KABANI: And if I may just quickly address
6 that point, Your Honor. His role was specifically as --
7 which is in the complaints. He was a liaison between
8 Amtrak and Metrolink specifically. He only worked with
9 Metrolink. Metrolink only operates within California.
10 So he wouldn't have, by definition of his job, employed
11 or engaged in any interstate commerce.

12 THE COURT: I mean, I can still say theoretically
13 that may still be -- I can think of a hypothetical
14 situation in which that would implicate interstate
15 shipment. I don't know, but, if Amtrak uses the same
16 rails as Metrolink to do interstate shipment of goods,
17 the fact that he was a liaison with Metrolink doesn't
18 necessarily rule out the possibility that he is working
19 on interstate rails.

20 But as I said I don't know any of that, and I
21 am not going to speculate as to any of that for the
22 purposes of deciding this motion.

23 MR. KABANI: So, Your Honor, if possible, I would
24 request that you allow opportunity for supplemental
25 pleadings if that is the case, and we can further go into

1 plaintiff's specific role with the company.

2 THE COURT: My point is I don't think you have to
3 because I think he loses on that ground. If the analysis
4 is does he -- actually, I should use past tense -- did
5 his job involve, directly involve the shipment of
6 interstate goods, he hasn't established that so I can't
7 find that. And so on that prong, he loses. I just don't
8 think I have to conduct that analysis.

9 MR. KABANI: I see. And I would also like to draw
10 the Court's attention to the arbitration agreement which
11 is Section 13 which specifies that even if the FAA, and
12 this is just basic contractual law where, even if the FAA
13 does not apply, Texas Arbitrations Act applies. And if
14 the Texas Arbitrations Act does not apply, California's
15 Arbitrations Act applies, and neither Texas nor
16 California have such a railroad employee exception.

17 THE COURT: So wait. Did you argue in the motion
18 that it should be compelled under Texas law?

19 MR. KABANI: I did not.

20 THE COURT: Well, then, I couldn't analyze it that
21 way. The only -- the only thing that I analyzed was does
22 the FAA compel arbitration here, and I think the answer
23 to that is clearly no. If you want to bring a different
24 motion, you know, you do whatever you think needs to be
25 done.

1 But I think that all I can do today is answer
2 the question that was presented to me which is does the
3 FAA compel arbitration in this case, and I think the
4 answer is no.

5 MR. KABANI: I would request the Court to take
6 under submission my interpretation, my reading of how the
7 Supreme Court looked at the three prongs in looking at
8 specific classes of employees rather than just saying
9 categorically all employees of a railroad are
10 automatically railroad workers.

11 THE COURT: I mean I will go back and read them
12 again. I find it hard to imagine that they definitively
13 said something about facts that were not before them and
14 a prong of the statute that were not before them in
15 either of those cases because neither of those cases
16 involved a seafaring company or a railroad.

17 So anything that they would have said would
18 have been dicta anyway, but I will look at them again
19 before we issue the final.

20 MR. KABANI: Thank you, Your Honor.

21 THE COURT: Thank you. Mr. Hauser, did you want
22 to be heard?

23 MR. HAUSER: No, Your Honor. We agree and submit
24 to the tentative.

25 THE COURT: Okay. All right. Then I will take

1 the matter under submission, and we will issue an order
2 as soon as we can.

3 THE COURT: Thank you both.

4 (Proceedings concluded.)
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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28,
United States Code, the foregoing is a true and correct
transcript of the stenographically reported proceedings held
in the above-entitled matter and that the transcript page
format is in conformance with the regulations of the
Judicial Conference of the United States.

Date: September 26, 2023

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

MR. HAUSER: [2] 3/10 12/22
MR. KABANI: [19]
THE CLERK: [1] 3/3
THE COURT: [21]

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